GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal petition filed by Sri Y.Sanyasi Naidu S/o Kullu Naidu, Forest Range Officer, Guntur Circle, Guntur District against the proceedings (M) D.Dis.No.10340/1992/C5, dated 23.01.2012 of the District Collector, Visakhapatnam under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition allowed – Orders -Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.MS.No. 22 Dated: 09-03-2018

Read the following:

1. Proceedings of the District Collector, Visakhapatnam, No.(M) D.Dis.No.10340/1992/C5, dated 23.01.2012.
2. Appeal Petition filed by Sri Y.Sanyasi Naidu S/o Kullu Naidu, Forest Range Officer, Guntur Circle, Guntur District before M(TW), No.355/M (TW)/2012, dt.21.02.2012.
3. Govt. Memo No.3484/CV.2/2012, dated 05.03.2012.
4. From the District Collector, Visakhapatnam, Lr.No.(M)Rc.No. 2261/2015/C5, dated 23.12.2015.
5. Govt. Memo No.3484/CV.2/2012, dated 30.11.2016 & 12.01.2017.
6. Govt. Memo No.3484/CV.2/2012, dated 17.06.2017.
7. Written arguments filed by the appellant through his Counsel before the Appellate Authority on 17.06.2017.

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ORDER:

In the reference 1st read above, the District Collector, Visakhapatnam has issued orders canceling the ST –Konda Kapu caste Certificate obtained from the then Tahsildar, Dumbriguda Mandal, Visakhapatnam District in the year 1985 by Sri Y.Sanyasi Naidu S/o Kullu Naidu.

2. In the reference 2nd read above, Sri Y.Sanyasi Naidu S/o Kullu Naidu, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, Visakhapatnam. After examining the said Appeal Petition, Government have admitted the Appeal Petition and granted stay on the proceedings of the District Collector, Visakhapatnam and called for the parawise remarks and connected records from the District Collector, Visakhapatnam in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, Visakhapatnam has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Y.Sanyasi Naidu S/o Kullu Naidu.

4. The said Appeal Petition has been posted for hearing on 24.12.2016, 24.01.2017 & finally on 17.06.2017 and the same has been informed to the Appellant and the Counsel for the Appellant in the references 5th & 6th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. In the reference 7th read above, the appellant has filed written arguments through his Counsel before the Appellate Authority i.e. Hon'ble M(SWE&TWE).

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, Visakhapatnam and proceedings of the District Collector, Visakhapatnam dated 23.01.2012, the Appellate Authority has observed that:

I. The appellant in his grounds has stated that his forefather's, paternal and maternal relatives are all native of Araku valley, Dumriguda Mandal, Paderu Division of Visakhapatnam District. Originally, the grandfather of the appellant was resident of Kothavalasa village of Chompi panchayat, 70 years back pursuing profession of cultivation. The mother of the appellant namely, Smt. Yerubanti Seetamma hailed from Dumriguda Mandal and the grandfather of the appellant namely Y. Kannaiah hailed from Araku

(P.T.O)

agency. Further he has stated that the forefather's of the appellant, have been identified as people belong to Konda Kapu community from the period prior to Independence and since his childhood he is grownup in the fold of Scheduled Tribe only, having put to suffer, the backwardness, with a great difficulty the appellant could come up in life, he married Smt. Sridevi who also belongs to Konda Kapu caste.

II. Further he has also stated that in depth enquiry was conducted by the MRO, Araku valley even by holding a Gramasabha where in the people of Chompi Panchayat and Kothavalasa village were enquired and upon that a detailed report was submitted vide proceedings Rc.No.297/2005/A, dated 24.01.2005, in which it was categorically reported that the Appellant belong to Konda Kapu Community. In the said enquiry the MRO, Araku valley has also categorically reported that the family of the Appellant followed the regular traditions and customs practised by the people belong to Kondakapu community, apart from that , it was also reported that the language, food habits, anthropological and ethnological trites of the Appellant family proved their status as Konda Kapu. The village of Kothavalasa village have in fact stated that the forefathers and grandfather of Appellant were living in Kothavalasa village. The said village was earlier in the Erstwhile Pachipenta Mokkasa under the control of Jaipur Samasthanam and forefathers hailed from the place have also used to pay land revenue to the authority of Jaipur Samasthanam. Further the appellant has also stated that the District Collector, relied upon the reports of the enquiry conducted behind the back of Appellant and without ever furnishing copies of such reports to the Appellant .

III. The District Level Scrutiny Committee has observed that based on the report of the then PO, ITDA, Paderu, the then Asst., Director, TCR &TI, TW, Hyderabad has enquired about the social status of the "Konda Kapu" people in those particular villages in Dumbriguda and Arukuvalley Mandals. The study team has interacted with the claimants and their caste people in order to enlighten itself with their Socio-Cultural economic and religious practices for tracing out similarities if any and relationship with Konda Kapu Tribe. Besides documentary evidences like school records prior to 1970 and land documents pertaining to those to whom caste certificates have been issued and also their relatives have been obtained to verify the caste mentioned in the records at that time. Surname wise genealogical charts were obtained from the claimants basing on which the caste of their relative from the same villages was traced in the School-Land records. After examining their Socio-Cultural practices and documentary evidences, it was opined that they doesn't belong to Konda Kapu tribe but "Kapu" Caste (non Tribal Community) which is predominantly found in the adjacent plain areas. Further it is observed that after examining the customs, food habits and nature of marriages, language genealogical features, and also guidelines supplied about the surnames by TCR &TI, TW, Hyderabad and documents produced by the Appellant , speaking order of the MRO, Arakuvalley, enquiry report of the TCR &TI, TW, Hyderabad, the DLSC, Visakhapatnam has recommended that the appellant does not belong to ST- Konda Kapu. Finally, based on the DLSC findings, the District Collector, Visakhapatnam has cancelled the appellant's ST-Konda Kapu caste certificate.

IV. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

V. The Appellate Authority is observed that during the course of arguments that the Appellant submitted his arguments have stated that his forefathers, paternal and maternal are all native of Arakuvally from the period prior to independence and belongs to ST Kondakapu community as

[Contd.. on P.3]

such he is also same community and in the school certificates of him clearly shows that he is Kondakapu as such on that scores he is able to prove his cast is ST Kondakapu. On verification of the arguments and the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that the documents pertaining to the father of the appellant with regard to the land possession certificate issued in his favour and the cases under LTR Act 1970 of the paternal uncle and maternal uncle of the appellant and also land revenue receipts indicated in the letter addressed to Sub-Collector, Paderu by the Mandal Revenue Officer, Arakuvalley vide R.No.278/2006/C/ dt.27.10.2006 clearly establishes that the cast of the father of the appellant and the paternal uncle and maternal uncle of the appellant is Kondakapu. A reading between the lines of the documents and on perusal of the genealogical chart the same is confirming that the existence of forefathers of the appellant on the side of paternal and maternal was prior to Indian independence. In the light of the above the appellant able to prove his claims that his caste is Kondakapu as such he comes under ST Category. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority failed to observe the finding of the concerned above.

6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No.16 of 1993), hereby allow the Appeal Petition filed by Sri Y.Sanyasi Naidu S/o Kullu Naidu, by upholding his Scheduled Tribe (Konda Kapu) claim and the Proceedings of the District Collector, Visakhapatnam issued in the reference 1st read above are set- aside.

7. The District Collector, Visakhapatnam is directed to take necessary consequential action in the matter.

8. The records (containing (M) Rc. No.10340/1992/C5, dated 23.01.2012, NF: 1-146, CF: 1-1045 in 2 volumes) received from the District Collector, Visakhapatnam through the reference 4th read above, are returned herewith in original to the District Collector, Visakhapatnam and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Visakhapatnam.
(with original records) (BY RPAD)

Sri Y.Sanyasi Naidu, Forest Range Officer,
through Addl. Prl. Chief Conservator of Forest,
Paryavaran Bhavan, Collectors Bungla Road,
Guntur Circle, Guntur, Guntur District.

Sri G.V. Shivaji, Advocate, H.No.1-7-139/18,
SRK Nagar, Golconda ‘x’ roads,
Musheerabad, Hyderabad – 500048.

Copy to:
The Director, TCR& TI, AP, Amaravathi.
The PS to M(SWE& TWE).
The PS to Principal Secretary(SW& TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER